IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 34892 of 2004(D)

OS.179/2004 of PRL.M.C., KOCHI
.....

PETITIONER:

V.J.JACOB, AGED 26 YEARS,
S/O.VALIAPARAMBIL JOSEPH, R/A.MOOLAMKUZHI MURI,
RAMESWARAM VILLAGE, NEAR KAZHUTHUMUTTU JUNCTION,
KOCHI.

BY ADV. SMT.SHOBA ANNAMMA EAPEN

RESPONDENTS:
---

1. XAVIER,A GED 58 YEARS, S/O.LATE JOSEPH,
R/A. KATTIPARAMBIL HOUSE,
CC.17/1623, RAMESWARAM VILLAGE, KOCHI TALUK.

2. MATHEW, AGED 65 YEARS, S/O.LATE JOSEPH,
R/A. KATTIPPARAMBIL HOUSE, CC.17/1623, RAMESWARAM
VILLAGE, KOCHI TALUK, REP. BY BROTHER AND PRESENT
GUARDIAN XAVIER, R/A. CC.17/1623,
RAMESWARAM VILLAGE, KOCHI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PWC : 34892 OF 2004

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF ORDER DT.19.07.04 IN OS NO.179/2004 ON THE FILE OF PRINCIPAL MUNSIFF COURT, KOCHI.

EXT.P2 : TRUE OCPY OF JUDGMENT DT.20.07.04 IN OS. 179/2004 ON THE FILE OF PRINCIPAL MUNSIFF'S COURT, KOCHI.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 34892 OF 2004

Dated this the 6th day of August, 2007

JUDGMENT

The grievance of the petitioner is that under the impugned order Ext.P1, written statement filed by the petitioner is rejected on the ground that the same is filed beyond the period of 90 days and the court has no power to receive such written statement. The above view cannot be correct in view of the pronouncement of the Supreme Court in **Kailash v. Nanhku** [**2005 (2) KLT 623**]. I set aside the impugned order and direct the learned Munsiff to take a fresh decision on the application, if any, filed by the petitioner for receiving the written statement with notice to the plaintiff at the earliest in the light of the principles laid down in **Kailash**'s case (supra) and at any rate within one month of receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

btt